

# Step-by-Step Environmental Review

## **Guide for Categorically Excluded (CE) Activities** (3/10)

### **Small Cities Development Program (SCDP)**

1. **Determine Environmental Certifying Officer** (see Overview and Preliminary Steps Required for All Activities, Attachment A)
2. **Determine category of environmental review for your activity or activities** (see Overview and Preliminary Steps Required for All Activities, Attachment A)

The following documents must be provided to SCDP staff to clear environmental review on Categorically Excluded (CE) Projects:

Document	Attachment #
Statutory Checklist (and attachments, if any)	7
SHPO and/or THPO response letters	NA
Certificate of Categorical Exclusion for HUD Funded Projects	8
Copies of Published Floodplain/Wetland Notices (if located in flood plain)	4
Copies of Published Notice of Intent to Request Release of Funds	14
Request Release of Funds & Certification Form (signed by certifying officer)	19

The following documents are required at SCDP monitoring:

Document	Attachment #
Affidavits from Publication(s)	NA
Any studies, permits, correspondence, or other documentation backing up consultation and compliance	NA
If required, State EAW (Environmental Assessment Worksheet) and/or EIS (Environmental Impact Statement)	NA
Rural Development (RD) Environmental Review (when applicable)	NA
SCDP Rehabilitation Threshold Determination/Tier Two Environmental Review Form and/or MnSHPO Programmatic Agreement	22 and/or

3. **Determine if any of the activities are in or may affect the regulatory (100 year) floodplain.**

Your local planning and zoning office will probably be able to provide this information. Information is also available online about the location of the regulatory floodplains. Follow the link and instructions provided under “Floodplain Management,” in Attachment 3, Environmental Review Web Resources & Links. If your project is located in a floodplain follow the steps at the end of this document titled “Additional Steps if Located in a Floodplain”.

4. **Complete Statutory Checklist**

If rehabilitation is minor and is Categorically Excluded a sample Statutory Checklist and explanatory attachment has been provided (Attachment 7).

Additional resources are available assist grantees with the research that may be necessary to complete the Statutory Checklist. See Attachment 3, Environmental Review Web Resources & Links.

5. **Complete “Certification of Categorical Exclusion for HUD Funded Projects” (Attachment 8) and have the Certifying Officer sign and date it.**
6. **Publish and/or Post and Mail either Notice of Intent to Request Release of Funds (NOIRROF) (Attachment 14) or Combined Notice (Attachment 16) (see instructions below)**

Notices must be either published and/or posted and be distributed by mail. See Attachment 5, Environmental Review Agency Contacts/Dissemination of Notice. Note that notification by mail or email is required for the entities on the first two pages of the contacts list. For earthmoving projects near or on Tribal lands, including rehabilitation that may involve minor excavation, notification may also need to be provided to the tribe associated; consult the list provided. In cases where tribes have Tribal Historic Preservation Officers (THPOs), the THPO has assumed responsibility for archeological consultation on tribal lands. Follow the timelines on the “Notice of Intent to Request Release of Funds Timelines” calculator (Attachment 15).

***Tip:** Cover letters should not be needed to go with these Notices. All the information needed by the recipient should be in the Notice itself*

*If you only post and mail notices (not publish), you must observe both the longer comment period and a longer objection period in the notice.*

7. **Complete Request for Release of Funds (RROF) and Certification form (Attachment 19) to SCDP. Available in as a fillable and downloadable form on the DEED website at:**  
[http://www.positivelyminnesota.com/Government/Financial\\_Assistance/Community\\_Development\\_Funding/Small\\_Cities\\_Development\\_Program\\_4.aspx](http://www.positivelyminnesota.com/Government/Financial_Assistance/Community_Development_Funding/Small_Cities_Development_Program_4.aspx).

**IMPORTANT!!** Fax/mail this form to SCDP on the date the published notice says you will. The only way this should be delayed is if comments received as a result of the notice cause you to change the project design, or delay requesting funds.

**Part 1. Program Description and Request for Release of Funds** (to be completed by Responsible Entity)

**Part 2. Environmental Certification** (to be completed by responsible entity)

The Certifying Officer of the responsible entity should read the 8 certifications to which he/she is attesting. On #3, the Certifying Officer should check whether or not the activities for which funds are being requested did or did not require the preparation of an Environmental Impact Statement.

The Certifying Officer (Mayor, County Board Chair, Township Chairman) should sign and date the Certification under Part 2, and the Officer's title and address should be filled in.

**Do not mail or fax the RROF and Certification form until the 7 or 10 day comment period (7 days for publishing, 10 days for posting) has passed and comments received have been responded to.** Comments may come by phone or by mail. Those commenting may need more information. If by phone, keep a dated record of each contact and your response. Comments received during this period may cause you to reconsider the project design or location. If this occurs, the “clock stops” on the Notice timetable, and changes may have to be made to the project, at which point the Notice must be republished with new information and a

new timeline. The date for which you submit this form, barring unforeseen delays, was in your Notice. Submit this form on that day or as soon as possible thereafter.

**Tip:** *This is very unlikely to happen if adequate research into compliance areas was done on the front end.*

8. **Submit the following documents to DEED and wait the 15 or 18 day (15 days for published, 18 days for posted) objection period given in the notice.**

Document	Attachment #
Statutory Checklist (and attachments, if any)	7
SHPO or THPO letters, if new construction/conversion or PF activity	NA
Certificate of Categorical Exclusion for HUD Funded Projects	8
Copies of Published Floodplain/Wetland Notices (if needed)	4
Copies of Published Notice of Intent to Request Release of Funds	14
Request Release of Funds & Certification Form (signed by certifying officer)	19

**Tip:** *DEED cannot start counting off objection period dates until they have the RROF. Send it in as close as possible to the date you say you will in the notice, even if you don't have any of your other required documentation, such as the affidavit of publication, etc.*

9. **Receive Notice of Removal of Environmental Review Grant Conditions form (Attachment 21) and disbursement instructions from DEED.**

SCDP staff may receive objections that may delay clearance. Only after clearance, you may commence non-exempt project expenses.

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**If Needed, Continue to Document Compliance with Environmental Requirements on the Rehab Threshold Determination/Tier 2 Environmental Review Form (Attachment 22).**

**Tip:** *Rehab Threshold Determination/Tier 2 Environmental Review Forms must be in each individual rehabilitation file. Conclusions must be drawn and the form signed before you award contracts on each unit.*

**All information in the original environmental review should be maintained in a single file called the “Environmental Review Record.” This must be on hand at all times for review by the public and SCDP staff.**

**Note on Re-evaluation of the Environmental:** Grantees may need to re-evaluate their environmental review when: project areas or activities change, additional money or activities are added to a project, or unanticipated environmental conditions are discovered following the original review. See your SCDP Representative for more information.

## Additional Steps if Located in a Floodplain

**Publish and mail First (Early) Floodplain Notice (Attachment 4), if necessary.**

**Floodplain notices must be published, and must also be distributed by mail.** See Attachment 5, Environmental Review Agency Contacts/Dissemination of Notice. Notification by mail is required for the entities on the first two pages of the contacts list. For earthmoving projects near or on Tribal lands, including rehabilitation that may involve minor excavation, notification must also be provided to the tribe associated. In cases where tribes have Tribal Historic Preservation Officers (THPOs), the THPO has assumed responsibility for archeological consultation on tribal lands.

There are two exceptions to publishing the floodplain notices:

***Exception for Residential Rehabilitation:*** *If rehabilitation is only of 1-4 family properties that meet the definition of Categorically Excluded (CE), there is no need to publish and mail floodplain notices as long as all rehab meets the floodplain definition of "minor improvement," as well. For non-flood recovery projects, "minor Improvements" are "any repair, reconstruction or improvement of a structure, the cost of which is less than 50% of the market value of the structure before the improvement or repair is started, unless the improvement is needed to comply with existing state or local health, sanitary or safety code specifications that are solely necessary to assure safe living conditions."*

***Exception for Other Activities:*** *If only an incidental portion of the activity site is in an adjacent 100 year floodplain, you do not need to publish and mail floodplain notices, as long as the proposed construction and landscaping activities (except for minor grubbing, clearing of debris, pruning, sodding, seeding, etc.) do not occupy or modify the 100 year floodplain and*

- *provision is made for site drainage and*
- *a covenant or other, similar restriction is placed on the property's continued use to preserve the floodplain.*

**Contact your SCDP Representative if you have questions about these exceptions.**

***Tip:*** There is no provision in the law for posting of floodplain notices, so they must be published.

**Second (Final) Floodplain/wetland Notice:** For any activities that required publication and mailing of a 1<sup>st</sup> (early) floodplain/wetland notice, publication and mailing of a second floodplain/wetland notice is required. (Attachment 18), which can be done at the same time as whichever other notice you have to publish or post.